REMARKS

Claims 1-17 are pending the application. Claims 1-17 have been rejected.

Claim Rejections - 35 U.S.C. § 102(e)

Claims 1-17 are rejected under 35 U.S.C. § 102(e) as being anticipated by Herbert et al., U.S. Patent No. 6,088,749. The rejection is respectively traversed, however claims 5, 9 and 16 have been amended to further clarify the subject matter of the invention in order to facilitate bringing this case into allowance.

Claim 1 provides a method of tunneling any existing data, control-, or routing-related protocol through a generic Internet protocol (IP) transport, the method comprising: first providing a generic messaging structure that includes at least a transport protocol, a message buffer, a source-address field and one or more data fields for transparent routing of a user protocol over the IP transport, and second providing an application program interface to the generic messaging structure, the interface including a mechanism for a user to choose a desired transport and associated protocol for transparently routing the user protocol over the transport in accordance with the chosen transport protocol within the one or more data fields.

Herbert describes a circuit switched network serving as "a universal host-to-switch application program interface (API)" (col. 2, lines 66-67) used "for creating customized signaling protocols supporting telecommunications applications" (col. 3 lines 24-34). Circuit switched networks are not compatible with packet switched networks. There is no indication or enablement in Herbert of providing generic messages over a packet switched network or the Internet.

The messaging structure described in Herbert provides "for performing call control processing and capable of being customized to meet telecommunications application and network signaling protocol requirements." (col. 2, line 67 to col. 3, line 2; underline added for emphasis). Herbert's invention, therefore, is concerned with meeting signaling protocol requirements, and not transport and associated protocols. There is no indication or enablement in Herbert of providing a generic messaging structure that includes a transport protocol for routing of a user protocol over the IP transport.

Docket No. 2705-172   Page 7 of 8   Application No. 10/083,891

Herbert "provides a user with the ability to define a desired signaling protocol... for performing any desired switching functions (col. 3, lines 6-9), and "for creating customized signaling protocols supporting telecommunications protocol" (col. 3, lines 24-28; col. 4, lines 4-7; col. 9, lines 54-58). Herbert provides a user with the ability to define and create a signaling protocol to support telecommunications. There is no indication or enablement in Herbert of providing a mechanism for a user to choose a desired transport and associated protocol for transparently routing the user protocol over the transport.

Claims 2-17 are allowable over the prior art Herbert for the same or similar reasons as described above for claim 1.

CONCLUSION

For the foregoing reasons, reconsideration and allowance of claims 1-17 of the application as amended is solicited. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

MARGER JOHNSON & McCOLLOM, P.C.

Bryan D. Kirkpatrick
Reg. No. 53,135

MARGER JOHNSON & McCOLLOM, P.C.
210 SW Morrison Street, Suite 400
Portland, OR 97204
503-222-3613
Customer No. 20575

Docket No. 2705-172   Page 8 of 8   Application No. 10/083,891